

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Damante Burrell,

Plaintiff,

Civil Action  
No.

v.

Steven Kenneway, Superintendent;  
Dean Gray, Acting Superintendent;  
Richard L. Morales, Sergeant;  
Tyler P. DeStefano, Prison Guard,

Verified Civil Complaint  
and Jury Demand

Defendants.

FILED  
IN CLERKS OFFICE  
U.S. DISTRICT COURT  
DISTRICT OF MASS.  
SEP 29 AM 10:52

I. INTRODUCTION

The Plaintiff brings this civil action against the Defendants for failure to protect him by placing him in a cell with a known enemy in violation of state and federal law, and state and federal constitution.

II. JURISDICTION

Jurisdiction is invoked upon this court pursuant to 42 U.S.C. § 1983, and 28 U.S.C. § 1331.

III. PARTIES

1. The Plaintiff, Damante Burrell, is and was at all times relevant to this complaint.

2. The Defendant, Steven Kenneway, who was the superintendent at the time of the incident, is and was at all times relevant to this complaint, and is being sued in his individual capacity.

3. The Defendant, Dean Gray, was the Deputy Superintendent of Operation at the time of the incident, who is now the "Acting" superintendent of SBCC until Kenneway returns to resume his superintendent duties at SBCC, is and was at all times relevant to this complaint, and is being sued in his individual

capacity.

4. The Defendant, Richard L. Morales, is the sergeant who oversaw the block plaintiff resided in and allowed for plaintiff to live with his enemy, is and was at all times relevant to this complaint, and is being sued in his individual capacity.

5. The Defendant, Tyler P. DeStefano, is a Prison Guard who works the block plaintiff resided in and was the block guard on the day of the incident, is and was at all times relevant to this complaint, and is being sued in his individual capacity.

#### IV. STATEMENT OF FACTS

6. On 3/31/20, when Plaintiff was returning from a mental health suicide watch to the L-2 Block, Cell #3, he noticed that he had a cellmate that moved into his cell by the name of Tyreice Harper, a known enemy of Plaintiff in which he had a physical altercation with in 2019 and no waivers were ever signed by the two.

7. Within 24 hours of living in the cell together, on 4/1/20 at around 9:45 p.m., Mr. Harper attacked the Plaintiff causing him serious bodily injuries.

8. Earlier on 4/1/20 Plaintiff spoke to Defendant DeStefano around 1:00 p.m. and let him know that him and Harper were enemies and that he felt uncomfortable living in the cell with him. Defendant DeStefano responded, "Y'all can kill each other for all I care."

9. Defendant Morales was in the block at the time, so Plaintiff yelled to Sgt. Morales, and Sgt. Morales replied, "I know what your issue is but I am going home." Later that evening Plaintiff was attacked and assaulted in his cell and injured.

10. Defendants Kenneway and Gray had put in place a policy after the January 10, 2020 incident where a fight broke out between staff and prisoners resulting in serious injuries on both sides, where enemies were placed together without signing any waivers, although it has been a long time policy to keep enemies apart.

V. CAUSE OF ACTION

Plaintiff realleges and reaffirms paragraphs 1-10, and incorporates them into this cause of action.

COUNT I. Failure to Protect

The Defendants acknowledge that they were aware that Plaintiff was placed in a cell with his enemy where a fight ensued causing Plaintiff injuries in violation of the Eighth Amendment to the United States Constitution and Article 26 of the Massachusetts Declaration of Rights, and acting under color of law, violated 42 U.S.C. § 1983.

VI. PRAYER FOR RELIEF

Wherefore, the Plaintiff prays that this court grants him the following relief:

- A) Award him punitive damages, jointly and severally, against each Defendant in the amount of \$85,000.00.
- B) Award him compensatory damages, jointly and severally, against each Defendant in the amount of \$45,000.00.

- C) Grant The Plaintiff any other relief this court deems just and equitable.
- D) Award the Plaintiff court costs and attorney fees.
- E) Plaintiff demands a trial by jury.

Respectfully Submitted,

Damante Burrell

Damante Burrell, pro se

SBCC

P.O. Box 8000

Shirley, Ma. 01464

Dated: 9-25-20

VERIFICATION

I, Damante Burrell, verify under the penalties of perjury that the facts stated herein are true and accurate.

Damante Burrell

Damante Burrell, pro se

Dated: 9-25-20